

**REMARKS**

Filed separately herewith is a Request for Continued Examination (“RCE”) and a Petition for a two-month extension of time, along with payment authorization (Form PTO-2038) to cover the requisite fees. The Commissioner is also authorized to charge payment of any other additional fees associated with this communication or credit any overpayment to Deposit Account No. 06-1358.

This Amendment, accompanying the RCE, makes further changes to independent claims 1 and 6. Thus, claims 1, 3-10, and 12-14 are in the application for further examination.

Applicants would like to thank Examiner Davis for the courtesies extended in a series of telephonic discussions on December 4, December 5, and December 17, 2007. As a result of these discussions, further changes to the independent claims have been made and, for the reasons pointed out and as discussed herein, the changes provide further departure from the prior art. Specifically, the limitations added to claim 1 further recite that a force is exerted between the mounting leg and the C-channel in a direction aligned with the plane of the rear face of the labeling panel. The amendment to claim 6, which is a combination claim with the C-channel, recites the above limitation and further recites that the labeling panel substantially parallels a line extending between the upper and lower lips of the C-channel. This is discussed in the patent specification at, for example, page 10, line 5 through page 11, line 17 and is clearly shown in the drawings.

As previously discussed, the present invention is a departure, *i.e.*, a significant improvement over, the Gebka U.S. Patent No. 5,394,632 which is referred to in the present application as the principal prior art. In the present invention, a single arcuate mounting leg is integral with the rear face of the labeling panel. The mounting leg has a resilient arcuate portion, one end of which is

secured to the rear face of the labeling panel, which extends upwardly in a direction toward the upper edge and rearwardly away from the rear face, and then extends arcuately downwardly and angled inwardly in a direction toward the rear face. The tip terminates in spaced relation to the rear face of the labeling panel. The label holder fits into a C-channel that includes upper and lower lips. The upper edge portion of the labeling panel is relatively rigid and the mounting leg is flexible to serve as a spring to exert pressure longitudinally, *i.e.*, in a direction along the cross-sectional length of the channel to hold it snug and difficult to remove. Insertion of the terminal tip occurs first and it is then pressed downwardly to give it spring tension until the rigid top portion can be inserted into the upper lip of the C-channel. This spring tension occurs because the distance between the label holder upper edge portion 34a and the terminal tip 54a is greater than the distance between the pockets of the C-channel requiring the arcuate leg 50 to deform in a direction substantially parallel to, or in alignment with, the back panel surface 32a and parallel to the C-channel. The effective length between the top edge portion and the terminal tip is adjustable to accommodate different lengths between the upper and lower lips of the C-channel. This adjustability occurs by the terminal tip adjusting in a direction substantially aligned with the rear face of the labeling panel caused by movement of the terminal tip and arcing of the arcuate portion in upward and downward directions substantially aligned with the plane of the rear face. Thus, there is a force exerted between the mounting leg of the label holder against the C-channel where the force vector extends substantially aligned with, or parallel to, the rear face of the label holder.

In the last Office Action, the Examiner rejected the claims as unpatentable over the Gebka et al. U.S. Patent No. 5,394,632 in view of Ireland U.S. Patent No. 6,226,910 and Harnois et al. U.S.

Patent No. 5,419,066. The distinctions between the present invention and the Gebka patent are acknowledged in the Office Action. Gebka does not disclose a structure to enable the tip movement as now claimed. The Examiner's citation of Ireland and Harnois, even if combined with Gebka, would not result in the present invention.

In Ireland, the hooks 19 and 20 are intended to be made of flexible material and include flexible projections 22 and 24 to flex and be engaged by the hooks 15 and 14 of the channel. The hooks and projections flex in directions that appear to be substantially perpendicular to the rear wall of the bracket so that as the bracket is pressed against the shelf channel, the bracket hooks will flex to permit entry and become fully engaged by the hooks of the channel. That is, the unit is attached by pushing it perpendicularly against the channel of the shelf after the top hook is inserted first. Flexure occurs solely to enable the projections to snap into the C-channel. Because of the flexibility of the top and bottom bracket hook arrangement, it is easy to remove the display piece by simply pulling it out away from the shelf. There is nothing in Ireland to suggest that a tensile or elongated force aligned or parallel with the back wall would exist. There is nothing to suggest that the hooks flex longitudinally, *i.e.*, in upward and downward directions such that a force vector is substantially parallel with the back panel. **Indeed, no longitudinal force between the legs and the channel can exist because the distance between the leg tips appear less than the distance between the channel legs. The legs 22 and 24 press against the back wall 13; the force is perpendicular to the panel, not parallel. See, col. 3, lines 9-11.**

The Harnois patent is also distinguishable. First, in Harnois, the lips 55, 57 that extend from the rear of the body 11 do not appear to flex or bend. Instead, bending occurs at the face of the flat

body. The bending or bowing outwardly of the flat body 11 causes the lips to press against the channel members. See column 6, lines 50-57. This is undesirable in the configuration of the present invention where you do not want bowing to occur, but you want the label holder to remain substantially planar. Thus, in Harnois, there is no flexure of the first and second members that project from the rear of the flat body. Harnois suggests that there is a layer 59 of higher elastic properties, such as rubber, that is coextruded upon the members to increase the quality of the mounting; this appears to be just a compressive force on the top of the lip 55. This does not at all suggest that there is any flexure of the first or second members.

Thus, even if it were obvious to combine the three references in a manner as suggested by the Examiner, one would not obtain a structure where the mounting portion adjusts in longitudinal directions substantially aligned with, or parallel to, the rear face of the labeling panel to accommodate different size C-channels. Neither of the supplementary references show adjustability of the members or projections in directions along the length of the backing member. Indeed, in Ireland, flexure occurs inwardly to enable insertion. **No force vector is parallel to the labeling panel or parallel to the C-channel wall; the force vector is perpendicular to the rear wall 13.** In Harnois, the mounting members do not flex at all but, rather, the label holder itself flexes. Thus, even if the combination could be made, one would not obtain the present invention.

Claims 1 and 6 provide the above-mentioned distinctions. For example, claims 1 and 6 define the terminal tip having spring-like adjustability to the “effective length of said mounting leg to accommodate C-channels with different spacings between their upper and lower pockets.” The claims further recite that the effective length between the upper edge portion of the labeling panel

Serial No.: 10/725,533

Atty. Docket No.: P68358US1

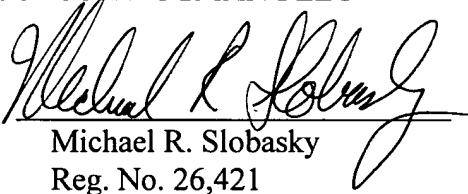
and the terminal tip will adjust in a direction substantially aligned with the rear face of the labeling panel to accommodate different distances between the upper and lower pockets of the C-channel. This adjustability, as is claimed in claims 1 and 6, is enabled by movement of the terminal tip and arcing of the arcuate portion in upward and downward directions substantially aligned with the plane of the rear face. Nowhere are these limitations shown in the prior art. Further, claim 6 recites that the labeling panel parallels a line drawn between the C-channel upper and lower lips.

Finally, it is respectfully submitted that the above combination of references could not legitimately be made because it is not suggested by the prior art. It is not believed obvious, with the Ireland and Harnois patents before one of ordinary skill in the art, to have revised or modified the Gebka in the manner as now suggested. Such a combination can only be made through hindsight.

Thus, it is now believed that this application is in condition for allowance. Should the Examiner have any questions after reviewing this Amendment, the Examiner is cordially invited to telephone the undersigned attorneys.

Respectfully submitted,

JACOBSON HOLMAN PLLC

By:   
Michael R. Slobasky  
Reg. No. 26,421

400 Seventh Street, NW  
Washington, D.C. 20004-2201  
(202) 638-6666  
Date: December 19, 2007  
MRS/clc